

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2012-165544-002 SE

11/21/2014

COMMISSIONER BRIAN D. KAISER

CLERK OF THE COURT
N. McKinney
Deputy

STATE OF ARIZONA

MITCHELL S EISENBERG

v.

STEVEN KYLE DULEY (002)
DOB: 4/4/1975

GLENN ALLEN

APO-SENTENCINGS-SE
APPEALS-CCC
AZ DOC
DISPOSITION CLERK-CSC
RFR

SENTENCE - IMPRISONMENT AND PROBATION

9:29 a.m.

Courtroom CCB 804

State's Attorney:	Martha Blackman
Defendant's Attorney:	Kirk Lewis
Defendant:	Present

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Bill Duley addresses the Court.
Ernie Lee addresses the Court.

Count(s) 1 and 3: WAIVER OF TRIAL: The Defendant knowingly, intelligently and voluntarily waived all pertinent constitutional and appellate rights and entered a plea of guilty.

IT IS THE JUDGMENT of the Court Defendant is guilty of the following:

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OFFENSE: Count 1 (as amended) Aggravated Driving or Actual Physical Control While
Under the Influence of Intoxicating Liquor or Drugs

Class 4 Felony with Two Prior Felony Convictions

A.R.S. § 28-1381(A)(1), 28-1383(A)(1), 28-3001, 28-3304, 28-3305, 28-1383(J), 28-
1444, 28-1461, 13-604, 13-701, 13-702, 13-801

Date of Offense: 12/22/2012

Non Dangerous - Repetitive

OFFENSE: Count 3 (as amended) Possession of Drug Paraphernalia

Class 6 Undesignated Felony

A.R.S. § 13-3401, 13-3407, 13+-3415, 13-3416, 13-604, 13-610, 13-701, 13-702, 13-
707, 13-801, 13-802, 13-901.01(F)

Date of Offense: 12/22/2012

Non Dangerous - Non Repetitive

AS PUNISHMENT, IT IS ORDERED Defendant is sentenced to a term of imprisonment
and is committed to the Arizona Department of Corrections as follows:

Count 1: 8 year(s) from 11/21/2014

Presentence Incarceration Credit: 240 day(s)

Mitigated

The Court recommends placement in the Marana facility.

Pursuant to A.R.S. § 13-604, the Court finds that the Defendant has been convicted of the
following prior felony offenses:

Possession of Narcotic Drug, a class 4 Non Dangerous felony committed on 11/23/2007
and convicted on 3/14/2008 in Maricopa County Superior Court CR2007-175066-001`.

Aggravated DUI, a class 4 Non Dangerous felony committed on 7/4/2006 and convicted
on 3/14/2008 in Maricopa County Superior Court CR2007-116355-001.

The Defendant was represented by counsel.

IT IS ORDERED the Defendant shall pay through the Clerk of the Superior Court:

FINE: Count 1 - Total amount of \$1,372.50, which includes surcharges of 83%.

ASSESSMENTS:

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Count 1: \$250.00 to the DUI Abatement Fund.

Count 1: \$1,500.00 to the Prison Construction and Operations Fund.

Count 1: \$1,500.00 payable in an amount to be determined per month to the Public Safety Equipment Fund pursuant to A.R.S. § 41-1723 beginning on a date to be determined.

Community Supervision: Count 1 - Waived pursuant to A.R.S. § 13-603(K), due to the term of probation in Count 3.

In the event the Defendant is released by the Department of Corrections on a temporary release basis, and a term of Community Supervision has been waived, the length of probation shall be extended to include the time of Defendant's temporary release, pursuant to A.R.S. §13-901(B).

The Court is suspending imposition or execution of sentence and, under the supervision of the Adult Probation Department (APD), placing the Defendant on probation for:

Count 3 Probation Term: 2 years

Upon absolute discharge from prison for a separate offense in Count 1.

Conditions of probation include the following:

Condition 6: Report to the APD within 72 hours of sentencing, absolute discharge from prison, release from incarceration, or residential treatment and continue to report as directed. Keep APD advised of progress toward case plan goals and comply with any written directive of the APD to enforce compliance with the conditions of probation. Provide DNA testing if required by law.

Condition 8 - Request and obtain written permission of the APD prior to leaving the state.

Condition 15: Restitution, Fines and Fees:

PROBATION SERVICE FEE: Count 3 - \$65.00 per month.

FINE: Count 3 - Total amount of \$1,372.50, which includes surcharges of 83%, payable \$25.00 per month.

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PENALTY ASSESSMENT - A.R.S. § 12-116.04: Count 3 - \$13.00.

Investigative Agency:

Maricopa County Sheriff's Office

Count 3: Technical Registration Fund in the amount of \$15.00.

Payment to commence on a date to be determined and is due on the same day of each month thereafter until paid in full.

The Arizona Department of Corrections shall notify the Clerk of the Court of Maricopa County of Defendant's release from custody via e-mail cforesponse@mail.maricopa.gov. The Clerk of the Court, upon said notification, shall furnish financial information for a Criminal Restitution Order for Judicial signature for any unpaid monies to date.

Condition 16 - Not consume or possess any substances containing alcohol.

Condition 17 - Count 3: Complete a total of 100 hours of community restitution. Complete a set number of hours per month as directed in writing by APD. Complete hours at a site approved by the APD.

IT IS FURTHER ORDERED that Defendant shall submit to fingerprint identification processing by the Maricopa County Sheriff's Office if directed to do so by the Adult Probation Department. The Adult Probation Department shall direct any Defendant placed on probation who has not already had a State Identification Number (SID) established to submit to fingerprint processing.

Defendant is advised pursuant to A.R.S. § 13-805 that failure to maintain contact with the Probation Department may result in the issuance of:

1. A criminal restitution order in favor of the state for the unpaid balance, if any, of any fines, costs, incarceration costs, fees, surcharges or assessments imposed.
2. A criminal restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered.

IT IS ORDERED granting the Motion to Dismiss the following: Count 2. Allegation of prior felony convictions, except for two prior felonies for Count 1. Allegation of on probation.

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Count(s) 1: IT IS ORDERED authorizing the Maricopa County Sheriff to deliver Defendant to the Arizona Department of Corrections.

IT IS ORDERED the Clerk of the Superior Court remit to the Arizona Department of Corrections a copy of this Order or the Order of Confinement together with all presentence reports, probation violation reports, and medical and psychological reports that are not sealed in this cause relating to the Defendant.

Count(s) 3: IT IS FURTHER ORDERED Defendant be released from custody for this count only.

IT IS FURTHER ORDERED that Defendant must submit to DNA testing for law enforcement identification purposes in accordance with A.R.S. §13-610.

10:00 a.m. Matter concludes.

ISSUED: Order of Confinement - Certified Copy to DOC via MCSO

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Defendant's right index fingerprint is permanently affixed to this sentencing order in open court.

/s/ COMMISSIONER BRIAN D. KAISER
JUDICIAL OFFICER OF THE SUPERIOR COURT

(right index fingerprint)